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## FISCAL IMPACT REPORT

SPONSOR Ortíz y Pino DATE TYPED 3/3/05 HB \_\_\_\_\_

SHORT TITLE Secretary of State Ballot Information Booklet SB 433

ANALYST Medina

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI		Indeterminate	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to the Election Code

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Secretary of State

Administrative Office of the Courts (AOC)

### SUMMARY

#### Synopsis of Bill

Senate Bill 433 amends the section of the Election Code relating to the requirement that the Secretary of State provide samples of constitutional amendment text in Spanish and in English. This bill requires that, in addition to the constitutional amendment text samples required to be printed, the Secretary of State print and distribute copies of a ballot information booklet in both Spanish and English in an amount equal to ten percent of the registered voters in the state. The information booklet is to contain the report of the Judicial Performance Evaluation Commission review of justices and judges up for retention.

#### Significant Issues

The bill provides that in an election in which both a constitutional amendment and the retention of a justice or judge are to be considered, both required pieces of information can be published as part of the same document.

The Judicial Performance Evaluation Committee (JPEC) was established by the Supreme Court in 1997. According to the Secretary of State, the additional information in the Secretary of State's ballot information booklet would not include the JPEC published recommendation to retain or not to retain any particular judge but only the JPEC review narrative of each justice and judge subject to retention.

According to the Administrative Office of the Courts (AOC):

“In the past, the Secretary of State has included the JPEC narratives in the Secretary of State Voter Guide or has allowed the JPEC to drop ship its Voter Guide on Judges with the Secretary of State Voter Guide. The office of the Attorney General asked the JPEC to remove its 2002 retention information from the office of the County Clerks statewide. As a result, the JPEC asked for a formal opinion. The Attorney General responded with the attached letter of advice dated August 9, 2004. Without this proposed legislation, the Secretary of State will not include the JPEC information in its voter guide.

The implementation of a statewide Judicial Performance Evaluation (JPE) program is critical to the effective implementation of the present state constitutional requirement mandating that judges stand for retention elections and receive at least 57% voter approval in order to remain in office. Knowledge concerning a judge's performance in office is essential to maintain public confidence in the courts, to assist judges in improving their ability to carry out their duties and responsibilities, and to improve the operation of the courts. Additionally, the information obtained will assist in designing meaningful judicial education programs.”

## **FISCAL IMPLICATIONS**

This bill would require the Secretary of State to prepare and print a ballot information booklet. However, according to the agency, the cost of producing such a booklet is indeterminate. LFC does not have adequate information to estimate the fiscal impact to the Secretary of State contained as implied in the provisions of this bill.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

This bill relates to the numerous pieces of election reform legislation introduced during this legislative session.

## **TECHNICAL ISSUES**

This bill would benefit from additional language prohibiting the JPEC portion of the ballot information booklet from containing the JPEC's recommendation to retain or not to retain justices and judges.

## **OTHER SUBSTANTIVE ISSUES**

The Attorney General has issued letter of opinion at the request of the JPEC on the question of whether information from the JPEC may be displayed in county clerks' offices that are used as voting locations (See Attachment). The Attorney General's opinion on this matter was that “consistent with [the] provision and the propriety of protecting the purity of an election polling place...the most prudent course of conduct is, during absentee voting, not to post information

from the JPEC in the county clerk's office. Furthermore, according to the AOC, the narratives of the JPEC will not be allowed by the Attorney General to be included in the Secretary of State's Voter Guide.

According to the AOC, the Secretaries of State in the states of Arizona and Colorado are required by statute to include the report of the states' respective commissions on judicial performance review for justices and judges up for retention at the expense of the state.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?**

The Secretary of State will not be required to produce for distribution a ballot information booklet containing the report of the JPEC's review of judges subject to retention for distribution.

**DXM/lg:yr**